

RADAMES MOLINA ALBELO, o/b/o)
himself and all other persons similarly)
situated,)
))
Plaintiff,)
))
v.) Case No.: 4:17-cv-0454-DGK
))
EPIC LANDSCAPE PRODUCTIONS, L.C.,)
))
Defendant.)

This is a collective action lawsuit seeking to recover unpaid wages and overtime pursuant to the Fair Labor Standards Act (“FLSA”). Now before the Court is Plaintiff Radames Molina Albelo’s (“Albelo”) Motion to Exclude Defendant’s Expert Land VanIngen. ECF No. 214.

Plaintiff moves to exclude his testimony under Federal Rule of Evidence (“FRE”) 702, arguing his testimony as inadmissible legal conclusions. Plaintiff describes his testimony as an

opinion on whether Epic has complied with the law by describing the law and then applying it to the facts of this case. Plaintiff also notes that much of what he purports to testify about is either not in dispute, an unnecessary summary of the law, or is guidance on the law which is the province of the Court.

Defendant responds that Mr. VanIngen's testimony does not impermissibly opine that Epic is in compliance with the FMCSRs, that his testimony will assist the jury in understanding the complex motor carrier regulatory framework, and, at the very least, some of his testimony concerns admissible factual statements and data.

The Court holds much of Mr. VanIngen's proposed testimony offers a legal opinion under the guise of expert testimony, or instructs the jury on the law, which is the Court's function and so inadmissible under FRE 702. *See S. Pine Helicopters, Inc. v. Phoenix Aviation Managers, Inc.*, 320 F.3d 838, 841 (8th Cir. 2003). The balance of his proposed testimony is either irrelevant, not in dispute, or unnecessary to resolve the issues before the jury in this case, and thus inadmissible under Federal Rule of Evidence 402 or 403.

Accordingly, Plaintiff's motion is GRANTED.

IT IS SO ORDERED.

Date: June 29, 2021

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT